

Benjamin Espinosa #74296
 HDSP - PO Box 650
 Indian Springs, NV. 89070-0650
 PLAINTIFF, IN PROPER PERSON

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * * * *

ESPINOSA)
 PLAINTIFF)
 v.) "PLAINTIFF'S APPENDIX: VOL. 2 TO
 GITTERE, ET AL) RESPONSE TO DEFENDANTS' SUMMARY
 DEFENDANT(S)) JUDGMENT MOTION" [ECF NO. 62]

APPENDIX: VOL 2

| EXHIBIT | DOCUMENT DESCRIPTION (No. of Pgs) | PG CITED ON |
|---------|--|---------------|
| M | Incident summary / Report (7) | 10; 22 |
| N | Correspondence w/ Gittere I (5) | 8; 13; 14; 16 |
| O | correspondence w/ Gittere II (7) | 8 |
| P | AR 509 "Protective Segregation" (4) | 19 |
| Q | AR 515 "Red tag Cells" (2) | 23 |
| R | AR 508 "Security Threatgroups-STG" (3) | 20 |

I verify That These documents are true and correct copies and/or originals.
 All are admissible evidence.

DATED This 1st day of July, 2023

Benjamin W. Espinosa

Benjamin W. Espinosa

PLAINTIFF, IN PROPER PERSON

EXH. M.

EXHIBIT M (7pgs)

INCIDENT SUMMARY / REPORT

EXH. M.

ESPINOSA #74296

NEVADA DEPARTMENT OF CORRECTIONS
IR#: IR-2019-ESP-001717
ELY STATE PRISON



Incident Summary Report

Reported by: **KERNER, [REDACTED]**

Entered by: **CKERNER**

Preliminary Report

On September 19, 2109 35 plus inmates from Unit 3A claimed to staff they were sick from contaminated food from the culinary they received during the dinner meal on September 18, 2019. Warden Gittere responded with medical. All inmates involved were seen by medical. Investigation continues. Later that evening, Warden, AWO, ASO and AAI had dinner on tier to reassure the inmates that their food is safe. Dinner was good, consisting of pizza, veg's, salad, dressing, brownie. WAG.

Incident Details

| | |
|--|---|
| Incident Area | Unit 3 |
| Incident Location | Unit 3 A Wing |
| ACA Review completed | Incident is not an ACA type incident |
| Miscellaneous | Institutional History |
| Was incident Video Taped? | No |
| Was force used? | No |
| Was use of force planned? | Not Applicable |
| Was Fire Marshall Report Submitted? | No |

Staff Involved

| <u>Staff Name</u> | <u>Participation Type</u> | <u>Comment</u> |
|----------------------------|---------------------------|--|
| [REDACTED] KERNER | Witness | CERT |
| [REDACTED] HOMAN | Witness | I-File, Cook Shaws entered in his behalf due to NOTIS issues. |
| [REDACTED] SHAW | Witness | Cook |
| [REDACTED] | Witness | entered in error |
| [REDACTED] | Witness | entered in error |
| [REDACTED] STARK | Witness | Medical |
| [REDACTED] | Witness | entered in error |
| [REDACTED] NORIEGA | Witness | Unit 3 feed dinner on 9-18-19 |
| [REDACTED] HULSEY | Reporting | Unit 3 SC/O 9-19-19 Incident |
| [REDACTED] GARCIA | Witness | Unit 3 feed dinner on 9-18-19 |
| [REDACTED] RIVERA | Witness | Culinary Officer |
| [REDACTED] CALDWELL | Witness | Medical |
| [REDACTED] MONTES | Witness | Unit 3 feed dinner on 9-18-19 |
| [REDACTED] SUNDAY | Witness | Culinary Officer |
| [REDACTED] NELSON | Witness | CERT C/O |
| [REDACTED] ROSA | Witness | cook |
| [REDACTED] WERNER | Witness | unit staff 9-19-19 Incident |
| [REDACTED] RUBIO | Witness | unit staff 9-19-19 Incident |

DEF001

DEF003

Civilians Involved

Staff Reports

██████████ CALDWELL; Incident 028; Staff-All Users; On September 19, 2019 at approximately 1110 I B. Caldwell CNII responded to unit 3A with other medical staff for inmates complaints of feeling sick. Each patient was escorted to the caseworker's office for evaluation of symptoms of general nausea, vomiting, and diarrhea that started last night after dinner and into the morning and during visit. Complaints of food smelling and tasting bad, speculation from inmates that there were feces in the food. See unusual occurrences for each individual assessment. Inmates advised to kite medical if symptoms worsen or continue or as needed. No episodes of vomiting or diarrhea during assessment from any inmates.

Inmates that were seen are as follows

[illegible]**Staff signature**

██████████ HOMAN; Incident 028; Staff-All Users; On September 26, 2019 at approximately 8:00 AM I, Sergeant ██████████ Homan, was asked by Warden ██████████ Gittere to review video footage from the culinary in regards to the exchanging of food carts between unit 5B and 6A going back as far as the video system would allow as well as the incident on the Unit 3A tier during which approximately 40 inmates made several complaints of having food poisoning from the dinner meal on September 18, 2019. Using the video system I was able to review film going back as far as August 22, 2019 breakfast feeding until the current date. I

DEF004

reviewed the cameras and could see on the following dates that the food trays were exchanged between Units 5A and Units 6B. The following dates were noted: Breakfast 9-22-19 and 9-29-19, Dinner 9-19-19, 9-20-19, 9-23-19, and 9-24-19. I also downloaded the culinary cameras showing the preparation, cooking, and storage of the meal in question cooked on 9-18-19 as well as the incident on the Unit 3A tier in its entirety from 9-19-19. At no time during meal preparation, storage and distribution was the meal tampered with in any way as can be seen on the video recording.

Staff signature

██████████ HOMAN; Incident 028; Staff-All Users; Entered by Sergeant ██████████ Homan on behalf of cook 3 ██████████ Shaw,

I cook/supervisor 3 D. Shaw on September 18th 2019 while working my assigned post in culinary I was doing my rounds in the kitchen did not witness anything suspicious with the food the inmates followed our recipe book for last night's dinner no extra ingredients went into the food just the ones the recipe calls for.

End report

Staff signature

██████████ KERNER; Incident 028; Staff-All Users; On September 19, 2109 35 plus inmates from Unit 3A claimed to staff they were sick from contaminated food from the culinary they received during the dinner meal on September 18, 2019. Warden Gittere responded with medical. All inmates involved were seen by medical. Investigation continues. I Correctional emergency response sergeant ██████████ Kerner Responded to this incident and help with organizing the inmates to be seen by medical.

Staff signature

██████████ NORIEGA; Incident 028; Staff-All Users; On September 2nd 2019 I SCO Noriega was working my assigned post as the unit 3 floor officer at Ely State Prison. At approximately 6:30 PM while feeding the unit 3 B tier I had several inmates report to me that the food on the unit stinks really bad and they can't eat it. I did not have any complaints from the 3 A tier that night. I personally remember smelling the food and it did not smell bad. To the best of my knowledge I also do not remember how many inmates told me it stinks.

Staff signature

DEF005

Staff signature

STARK; Incident 028; Staff-All Users; At ESP on Thursday, 9/19/19, at approx. 1045 am., I, [REDACTED] Stark Acting CNIII, was asked by the Warden to evaluate several inmates in Unit 3 that were alleging that their food was contaminated last evening. I, along with other medical staff, assessed approx. 41 inmates total in the case worker office and unit medical exam room in Unit 3. The general complaint of all inmates involved was nausea, some vomiting, and diarrhea. A few complained of headaches and stomach cramps, see unusual for individual reports. Inmates stated that the food smelled weird and tasted bad, but most finished their meal, and a few ate extra food. Only one inmate had hyperactive bowel tones; all others were hypoactive, and I had to listen very closely to hear them; this is an unusual finding with gastrointestinal upset. All inmates had vital signs within normal range, no fevers. The list of inmates that I assessed personally, #19, were: [REDACTED]

All inmates were able to keep water down and were advised to rest and hydrate, no exercise today. They were advised to notify medical via kite if symptoms did not resolve within 24 hrs; all verbalized understanding. END OF REPORT.

Staff signature

**SUNDAY;Incident 028;Staff-All Users;On September 18th 2019 I correctional officer Sunday was working in culinary. I was posted in the culinary from 5AM to 5PM. While working my regular post we prepared dinner for institution on the date of September 18th. During my time posted in culinary no food was tampered with. All food was cooked together in large kettles.
This ends my report.**

Staff signature

DEF007



State of Nevada Department of Corrections

Investigation Detail Report
For: AG Office

Investigation

Investigator:
Assigned Date:
Report Due Date:
Disposition Date:

IR Number: IR-2020-ESP-001037
Occurrence Date: 06/01/2020
IA Number: IA-
Institution: ESP

Referral

Referred By: GITTERE, [REDACTED]
Referred Date: 06/01/2020 11:11
Referral Detail: Inmate allegation of food tampering. ...[BSHIELDS, 07/28/2020 12:32:12] Compliance enforcement is aware and monitoring the situation.

Narrative

On 5/31/2020, PS inmate ESPINOZA 74296 housed in CC PS Lev-2 Unit 4A alleges GP inmates working in Culinary are tampering with the eggwhites being served for breakfast by mixing in "white flash." No specific dates are mentioned. No other similar complaints from any other inmates received. He writes, "... on certain meals and eggs are causing not only my stomach but several others to bubble, make us sick, making us weak, etc." Medical and Culinary advised to maintain surveillance.

Offender Involvement

| NDOC ID | Offender Name | Participation |
|------------------|--------------------|---------------|
| 74296 | ESPINOSA, BENJAMIN | Victim |
| Comments: | | |

Staff Involvement

| Staff Name | Participation |
|-----------------------------------|---------------|
| HOMAN, [REDACTED] | Reporting |
| Comment: Culinary Sergeant | |
| Staff Name | Participation |
| DREW, [REDACTED] | Reporting |
| Comment: ASO | |
| Staff Name | Participation |
| CARPENTER, [REDACTED] | Reporting |
| Comment: DON | |

EXH. N

EXHIBIT N. (5 pgs.)

CORRESPONDENCE W/GITTERE
I.

EXH. N.

ESPINOSA# 74296

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 4A-23 | 6/6/20 |

4.) REQUEST FORM TO: (CHECK BOX)

| | | | |
|-------------------------------------|--|--|--------------------------------------|
| <input type="checkbox"/> CASEWORKER | <input type="checkbox"/> MEDICAL | <input type="checkbox"/> MENTAL HEALTH | <input type="checkbox"/> CANTEEN |
| <input type="checkbox"/> EDUCATION | <input type="checkbox"/> VISITING | <input type="checkbox"/> LAW LIBRARY | <input type="checkbox"/> DENTAL |
| <input type="checkbox"/> LAUNDRY | <input type="checkbox"/> PROPERTY ROOM | <input type="checkbox"/> SHIFT COMMAND | <input type="checkbox"/> OTHER _____ |

5.) NAME OF INDIVIDUAL TO CONTACT: Warden Gittere

6.) REQUEST: (PRINT BELOW)

I know you say you have protocols in place and you dont believe us but soon you will be forced to. My celly & I have been ringing our food before we eat it now. And I am sick of finding foul things in my food. Today I just found a wire like from a scotch bright (which we dont have back here) in my food. Here it is

Your GP inmates are gonna get you sued. No wonder my guts are so fucked up. You're correct it.

7.) INMATE SIGNATURE [Signature]

JU #

14296

8.) RECEIVING STAFF SIGNATURE _____

DATE _____

9.) RESPONSE TO INMATE

Warden's Office

W.A. Gittere

Warden

FLY STATE PRISON

JUN 08 2020

10.) RESPONDING STAFF SIGNATURE _____

DATE _____

INM/

EQUEST FORM

| | | | |
|-------------------|-------|------------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 4A-23 9A-23 | 6/8/20 |

4.) REQUEST FORM TO: (CHECK BOX)

___ MENTAL HEALTH

___ CANTEEN

___ CASEWORKER

___ MEDICAL

___ LAW LIBRARY

___ DENTAL

___ EDUCATION

___ VISITING

___ SHIFT COMMAND

___ LAUNDRY

___ PROPERTY ROOM

___ OTHER

5.) NAME OF INDIVIDUAL TO CONTACT:

Giittere

(pg. 1 of 2)

You know just as well as I do that up to us, don't have steel wool or scouring pads and that the kitchen does. There's no way I could of come up with that.

6.) REQUEST: (PRINT BELOW)

you really didn't need to do all this. Now you are accusing me over me trying to bring a serious issue to your attention. All you had to do was check the culinary cameras.

All we PS inmates want is to be able to eat our food without it being poisoned. It's

Sat. & Sunday meals. I have done nothing to deserve this other than trying to get

you to realize that your procedures are not working. And instead you've

actively retaliated against me for trying to do the right thing. I do all

I can to stay out of trouble with no write ups and you want to attack me because you can't control your GP inmates. You know that

that's not fair. All I wanted was to be able to eat. You should understand that.

7.) INMATE SIGNATURE

Benjamin Espinosa

DOC #

74296

right?

8.) RECEIVING STAFF SIGNATURE

DATE

9.) RESPONSE TO INMATE

Actually, I'm positive our safeguards are working. But I'm concerned about your health. Medical will do an evaluation if you let them. I'm



10.) RESPONDING STAFF SIGNATURE

DATE

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 9A-23 | 6/8/20 |

4.) REQUEST FORM TO: (CHECK BOX)

☐ CASEWORKER ☐ MEDICAL ☐ MENTAL HEALTH ☐ CANTEEN
☐ EDUCATION ☐ VISITING ☐ LAW LIBRARY ☐ DENTAL
☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Guittere (pg. 2 of 2)

6.) REQUEST: (PRINT BELOW) I've given you no problems and did all I could to stay out of trouble. I just wanted to be able to eat and prove to you that which you've failed to believe. I don't make problems for you here in Ely. Why punish me when I've done nothing wrong. What am I suppose to do when I find metal in my food? Throw it away and just move on? Tell a % and this same process happens: I've never had anything in my food till I came to Ely and you let active gang members cook my food. 18 years.

7.) INMATE SIGNATURE [Signature] DOC # 74296

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

10.) RESPONDING STAFF SIGNATURE _____ DATE _____

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 9A-23 | 6/10/20 |

4.) REQUEST FORM TO: (CHECK BOX)

☐ CASEWORKER ☐ MEDICAL ☐ MENTAL HEALTH ☐ CANTEEN
☐ EDUCATION ☐ VISITING ☐ LAW LIBRARY ☐ DENTAL
☐ LAUNDRY ☐ PROPERTY ROOM ☐ SHIFT COMMAND ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Warden Gittere

6.) REQUEST: (PRINT BELOW) You uprooted me from my cell when I posed NO threat to anyone or myself? There have been inmates who have gotten into violent altercations, and some who have even set fires on your tiers and you leave them and red tag them but immediately after I threaten to contact NV-cure and litigate the food issue you place me in custody? I don't drink, do drugs, I don't get into fights, and haven't gotten a single write up since I've been here and only a minor noc the last time I was here and you see me as that much of a threat? Can I please return to my cell to continue doing my time as I have been?

7.) INMATE SIGNATURE B. Espinosa DOC # 74296

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

No, I'm concerned for your health. Work with medical and they will try to help you. hzy



10.) RESPONDING STAFF SIGNATURE _____ DATE _____

INMATE REQUEST FORM

To /

| | | |
|-------------------------|------------------|----------|
| 1.) INMATE NAME | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa 74-14 | 9A-23 | 6/15/20 |

4.) REQUEST FORM TO: (CHECK BOX)

☐ MENTAL HEALTH
 ☐ CANTEEN
☐ CASEWORKER
 ☐ MEDICAL
 ☐ LAW LIBRARY
 ☐ DENTAL
☐ EDUCATION
 ☐ VISITING
 ☐ SHIFT COMMAND
☐ LAUNDRY
 ☐ PROPERTY ROOM
 ☐ OTHER

5.) NAME OF INDIVIDUAL TO CONTACT: Warden Guittiere

6.) REQUEST: (PRINT BELOW) I have sent a kite to medical refusing as I am perfectly healthy and do not require any medical assistance. you say that you are concerned for my health but I have no health concerns. As it is well within my rights to refuse medical treatment, I am now asking to be returned to my unit. If you truly was concerned with my health as you claim, you would have had medical see me by now. since it is now shown not to be necessary, I thank you for your concern but if I need medical attention I will put a kite (medical) in to be seen like everyone else. I don't need CERT to extract me and put me in medical, you don't do this to anyone else. Thank you. can I return now?

7.) INMATE SIGNATURE Benjamin Espinosa DOC # 74296

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

I am happy to hear that your complaints have been resolved. If they return, kite medical. I will advise classification that you may be moved out of the Infirmary.

10.) RESPONDING STAFF SIGNATURE _____ DATE _____

CC: GRIEVANCE FILE

EXH. 0.

EXHIBIT 0 (7 pgs.)

CORRESPONDENCE w/ GITTERE
II

EXH 0

ESPINOSA #74296

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 5A-6 | 5/9/21 |

4.) REQUEST FORM TO: (CHECK BOX) **ELY STATE PRISON** ☐ MENTAL HEALTH ☐ CANTEEN
☐ CASEWORKER ☐ MEDICAL **MAY 10 2021** ☐ LAW LIBRARY ☐ DENTAL
☐ EDUCATION ☐ VISITING **WARDEN'S OFFICE** ☐ SHIFT COMMAND
☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: WARDEN GITTERE (PG 1 of 2)

6.) REQUEST: (PRINT BELOW) you just don't get it do you? Now on 5/7/21 eggs had dust-pandebris and lint in our eggs, and cereal caused my bubble gut. 5/8/21 our cereal had large amounts of salt in it, Eggs were dirty smelling and yellow. 5/9/21 eggs were yellow again. They are egg whites - no yokes. When PC's were in there - they were always white. Now, again I can't eat. And you refuse to raise our store limit. Now I have to starve? How can my father reach you? Because this has to stop \$ Now. Conf. --

7.) INMATE SIGNATURE _____ DOC # 74296

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

10.) RESPONDING STAFF SIGNATURE _____ DATE _____

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 5A-6 | 5/9/21 |

4.) REQUEST FORM TO: (CHECK BOX) **ELY STATE PRISON** MENTAL HEALTH ☐ CANTEEN ☐

☐ CASEWORKER ☐ MEDICAL ☐ LAW LIBRARY ☐ DENTAL ☐

☐ EDUCATION ☐ VISITING ☐ SHIFT COMMAND ☐

☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER ☐

5.) NAME OF INDIVIDUAL TO CONTACT:

WARDEN GITTERE

We are now back to GP poisoning/tampering with PCs food. It seems to be something that you cannot control or fix. This may need higher intervention. Even when you were switching carts - some how it was still happening as I proved it to you already. There is NO way that inmates should or need to know where the pans are going. Then the PC should put the carts in the hall way and load the pans randomly onto the carts themselves. And if it still happens then your staff needs to be investigated. This needs to stop. Your protocols DO NOT WORK and your failure to recognize that over your pride may will end up before the Directors office showing your inability to even catch and punish GP inmates. As a warden, you can't catch these inmates? They poison other inmates and you can't stop it? Mr. Gittere, this is out of hand and our food was just fine when PCs were in there. Your staff's constant hating on PCs has got to STOP. STOP why does Active gang members have to have the jobs - especially when they poison your other inmates?

7.) INMATE SIGNATURE _____ DOC # 74296

8.) RECEIVING STAFF SIGNATURE _____ DATE 5-9-21

9.) RESPONSE TO INMATE

Thank you for your concern. All of our anti-tampering measures are back in effect. I am so confident that the food is safe that I regularly conduct Warden's Dinner Tours in the P/S units and eat dinner with the inmates. In fact, I did me in 5B just last Friday, 5/07/21. The beef stew was good. May



10.) RESPONDING STAFF SIGNATURE _____ DATE _____

CC: GRIEVANCE FILE

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 5A-6 | 5/9/21 |

4.) REQUEST FORM TO: (CHECK BOX) _____ MENTAL HEALTH _____ CANTEEN
 _____ CASEWORKER _____ MEDICAL _____ LIBRARY _____ DENTAL
 _____ EDUCATION _____ VISITING _____ SHIFT COMMAND
 _____ LAUNDRY _____ PROPERTY _____ OTHER _____

ELY STATE PRISON

MAY 10 2021

WARDEN'S OFFICE

5.) NAME OF INDIVIDUAL TO CONTACT:

WARDEN GITTERE (PG 2 of 2)
Even eating the burgers today my tongue is numb & soapy.

6.) REQUEST: (PRINT BELOW)

(--- cond) You need to understand that trying to solve one problem, you create a larger one. PC's doing something wrong? Punish them individually. Not as a whole. GP will constantly try to poison 3 wings and take every chance to do it. And you are contributing to it by given them an Avenue. What's the prisons problem with PC's? Why do you all hate PC's so much? We don't stab everyone. They get PC's out of your prison and move all your GPs back so all your PC Matrons & G's can deal with their politizing GPs. Will a lawsuit fix all this? USDC (NEV.) 3:21-cv-00205-MMD-CLB

7.) INMATE SIGNATURE

DOC #

74296

8.) RECEIVING STAFF SIGNATURE

DATE

9.) RESPONSE TO INMATE

10.) RESPONDING STAFF SIGNATURE

DATE

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 5A-6 | 5/11/21 |

4.) REQUEST FORM TO: (CHECK BOX)

___ CASEWORKER

___ MEDICAL

___ EDUCATION

___ LAUNDRY

___ VISITING

___ PROPER

ELY STATE PRISON

MAY 12 2021

WARDEN'S OFFICE

___ MENTAL HEALTH

___ LAW LIBRARY

___ SHIFT COMMAND

___ OTHER

___ CANTEEN

___ DENTAL

5.) NAME OF INDIVIDUAL TO CONTACT:

Warden Gittere (Pg 1 of 2)

6.) REQUEST: (PRINT BELOW)

Try showing up on a Saturday unannounced and when GP knows that there are no wardens watching the cameras. But either way, as unannounced as you believe yourself to be your staff is not going to allow your food to be tampered with. Mr. Gittere unknowingly to you I've talked to GP personally and they were always given a heads up on when it was a bad time. I know you are blind to reality and believe, truly believe that your staff is not corrupt. And not PC haters. So yeah you was in SB, huh? which means other inmates

7.) INMATE SIGNATURE



DOC #

74296

8.) RECEIVING STAFF SIGNATURE

DATE

9.) RESPONSE TO INMATE

Noted. Your food is safe honey



10.) RESPONDING STAFF SIGNATURE

DATE

INMATE REQUEST FORM

| | | | |
|-------------------|-------|------------------|----------|
| 1.) INMATE NAME | DOC # | 2.) HOUSING UNIT | 3.) DATE |
| Benjamin Espinosa | 74296 | 5A-6 | 5/11/21 |

4.) REQUEST FORM TO: (CHECK BOX) ☐ MENTAL HEALTH ☐ CANTEEN
☐ CASEWORKER ☐ MEDICAL ☐ LAW LIBRARY ☐ DENTAL
☐ EDUCATION ☐ VISITING ☐ MAY 12 2021 ☐ SHIFT COMMAND
☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

WARDEN'S OFFICE

5.) NAME OF INDIVIDUAL TO CONTACT: Warden Gittere (Pg. 2 of 2)

6.) REQUEST: (PRINT BELOW) besides myself are complaining too. Showing that these GP inmates and your staff are smarter than you are and they are all fooling you.
 I'm not gonna argue with you anymore other than in court the case has been filed and it only helps you vicariously admitting others are complaining and that it must be an issue since you admitted to reestablishing your protocols. You shouldn't have to have protocols which means it is an issue w/ GP trying to poison us.

7.) INMATE SIGNATURE  DOC # 74296

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

10.) RESPONDING STAFF SIGNATURE _____ DATE _____

INMATE REQUEST FORM

11B11B

| | | | |
|--------------------------------------|----------------|--------------------------|---------------------|
| 1.) INMATE NAME Benjamin Espinosa | DOC # 74296 | 2.) HOUSING UNIT 5A-6 | 3.) DATE 5/16/21 |
|--------------------------------------|----------------|--------------------------|---------------------|

4.) REQUEST FORM TO: (CHECK BOX)

| | | | |
|-------------------------------------|--|--|----------------------------------|
| <input type="checkbox"/> CASEWORKER | <input type="checkbox"/> MEDICAL | <input type="checkbox"/> MENTAL HEALTH | <input type="checkbox"/> CANTEEN |
| <input type="checkbox"/> EDUCATION | <input type="checkbox"/> VISITING | <input type="checkbox"/> LAW LIBRARY | <input type="checkbox"/> DENTAL |
| <input type="checkbox"/> LAUNDRY | <input type="checkbox"/> PROPERTY ROOM | <input type="checkbox"/> SHIFT COMMAND | <input type="checkbox"/> OTHER |

5.) NAME OF INDIVIDUAL TO CONTACT:

Warden Gittere

6.) REQUEST: (PRINT BELOW)

5/15/21 we had soap in our Panit and today our egg were yellow and dirty. So you claim you are in control of it but it still happens. why do I have to tell you this? NOONE SHOULD KNOW WHERE THE PANS ARE GOING. THE %'S SHOULD PUT THE CARTS IN THE HALLWAY AND %'S ONLY SHOULD LOAD THE CART. NO INMATE SHOULD LABEL THE PANS. Stop your covering your ass and get them GTR active gang member out of there

7.) INMATE SIGNATURE

DOC#

74296

8.) RECEIVING STAFF SIGNATURE

DATE

5-16-21

9.) RESPONSE TO INMATE

You complaints will be investigated. Thank you. hmg



10.) RESPONDING STAFF SIGNATURE

DATE

CC: ASD
IG

INMA REQUEST FORM

| | | | |
|---------------------------|--------------------|-------------------------------|-------------------------|
| 1.) INMATE NAME <u>To</u> | DOC # <u>74296</u> | 2.) HOUSING UNIT <u>4A-23</u> | 3.) DATE <u>5/31/20</u> |
|---------------------------|--------------------|-------------------------------|-------------------------|

4.) REQUEST FORM TO: (CHECK BOX)

☐ CASEWORKER ☐ MEDICAL ☐ MENTAL HEALTH ☐ CANTEEN

☐ EDUCATION ☐ VISITING ☐ LAW LIBRARY ☐ DENTAL

☐ LAUNDRY ☐ PROPERTY ROOM ☐ SHIFT COMMAND ☐ OTHER

ELY STATE PRISON
JUN - 1 2020

WARDEN'S OFFICE

5.) NAME OF INDIVIDUAL TO CONTACT: Warden Gittere

6.) REQUEST: (PRINT BELOW) I understand that you believe that your procedures are working but our food is still being tampered with. on certain meals and eggs are causing not only my stomach but several others, to bubble, make us sick, making us weak, etc. likely your white flash is being mixed in. Every time I get sick I ask others if they did and they describe the same symptoms without me even mentioning them. showing that it has the same effects. since you refuse to get the STG active gang members out of the kitchen who knows how its eating at our stomachs & intestents. leaving you responsible. civilly.

7.) INMATE SIGNATURE [Signature] DOC # 742968.) RECEIVING STAFF SIGNATURE [Signature] DATE 05-31-20

9.) RESPONSE TO INMATE

ESPINOZA - There is no such thing as "WHITE FLASH". However, we will forward your complaints to the IG/Compliance Enforcement office.



10.) RESPONDING STAFF SIGNATURE _____ DATE _____

EXH. P.

EXHIBIT P (pgs.)

AR 509 "Protective Segregation"

EXH. P

ESPINOSA #74296

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
509**

PROTECTIVE SEGREGATION

Supersedes: AR 509 (06/17/12) and AR 509 (Temporary, 06/05/13)
Effective Date: 10/15/13

AUTHORITY:

NRS 209.341
NRS 209.351

RESPONSIBILITY

The Director of the Department of Corrections is responsible to provide adequate housing for those inmates requiring Protective Segregation.

Institutional Classification Committees are responsible for investigating, identifying and classifying Protective Segregation inmates.

509.01 GENERAL PROVISIONS

1. Inmates may require separation and/or secure housing to ensure their physical safety and well-being or for institutional security. These general provisions are for both voluntary and involuntary Protective Segregation.
2. Protective Segregation may be used voluntarily or involuntarily, but it will never be used as a form of punishment.
3. Inmates requesting protection should be placed in Administrative Segregation pending classification pursuant to the Department's Administrative Regulation 507.
4. The classification committee will schedule a hearing and conduct a classification review as soon as practicable after being informed of a request for Protective Segregation.
5. The committee will take reasonable steps to ensure that an inmate is not permitted entry into a Protective Segregation unit under false pretenses. The committee should be cautious to ensure the inmate is not requesting Protective Segregation to access enemies or for housing convenience.

6. The following steps will be used to manage inmates who require separation from other inmates for their protection. A transfer to general population at a different institution should be considered prior to Protective Segregation.

- A. Preference will be given to transfer to a different institution or;
- B. Assignment to an area of the Department designated for Protective Segregation, or;
- C. Transfer to another state under provisions of the Interstate Corrections Compact.

7. All inmates admitted to or released from Protective Segregation require a classification review to be done in accordance with AR 503 – Conduct of Objective Classification and AR 506 - Reclassification Schedule

8. After the classification committee hearing, a classification case note documenting the hearing, will be entered in the Nevada Offender Tracking Information System (NOTIS). If an inmate is being placed in Protective Segregation;

- A. A Central Monitoring Status Sheet (DOC Form 2023) will be completed for the I-File.
- B. Protective Segregation status will be entered in the Offender Care in Placement screen in NOTIS.
- C. A Protective Segregation Alert will be entered in NOTIS.

9. Protective Segregation will not be permitted without approval of the classification committee or without documentation that the status is warranted and no reasonable alternatives are available.

10. The Protective Segregation status will be reviewed at each (6) month review to determine whether reasons for the placement continue and with the goal of terminating the Protective Segregation status housing, if possible, with the ultimate goal of the inmate reintegrating into general population.

11. All inmates in Protective Segregation will be classified as close custody.

509.02 VOLUNTARY ASSIGNMENT TO PROTECTIVE SEGREGATION

1. The inmate shall provide the Classification Committee with the names of his or her enemies and a reason why the enemy situation exists and/or a reason why Protective Segregation is needed. If names are not known or available, the inmate must provide the committee with appropriate justification and must cooperate with any investigation regarding their placement in protective segregation.

2. Admission to Protective Segregation will be fully documented with consent by the inmate noted in appropriate classification case notes.
3. An inmate who has been voluntarily placed in Protective Segregation may request a classification hearing to discuss removal from that status.
 - A. This request must be made in writing by the inmate.
 - B. The inmate will be scheduled and seen by the classification committee to consider his or her request.
4. If the inmate is approved to leave Protective Segregation:
 - A. The caseworker will have the inmate sign a Protective Segregation Waiver (DOC Form 2084).
 - B. The caseworker will fill out a Central Monitoring Status Sheet for the I-File.
 - C. The Protective Segregation designation will be “released” on the Care in Placement screen in NOTIS and the Protective Segregation alert will be “expired”.
5. The committee may require the inmate to remain in Protective Segregation involuntarily. In such instances, the procedural safeguards set forth in 509.03 of this regulation shall apply.

509.03 INVOLUNTARY ASSIGNMENT TO PROTECTIVE SEGREGATION

1. When an inmate is involuntarily assigned to, or required to remain in Protective Segregation, the classification committee should consider the following general considerations.
 - A. The decision should be based on evidence that the inmates or institution's safety and/or security would be in jeopardy if the inmate was in general population.
 - B. The security or safety threat should continue to be evident in reviews by the classification committee in order to retain an inmate in Protective Segregation.
 - C. If it appears a safety or security threat no longer exists, the inmate should be scheduled for a classification committee hearing to determine if he or she can be moved to the general population.

509.04 PROTECTIVE SEGREGATION MANAGEMENT

1. Inmates housed in Protective Segregation units will have the same canteen, educational, programming and recreational privileges, as those in general population, which do not conflict with institutional safety or security.

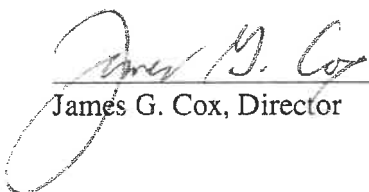
2. Protective Segregation units may be managed differently at different institutions, depending on the security needs and management of the institution.

3. This section is not intended to affect restrictions which may be imposed by the Disciplinary Committee.

APPLICABILITY

1. This AR requires an Operational Procedure at locations housing Protective Segregation inmates.

2. This AR requires an audit.



James G. Cox, Director

10/15/13

Date

EXH. Q

EXHIBIT Q (pgs.)

AR

"Red-tag cells"

EXH. Q

ESPINOSA #74296

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
515**

RED TAG STATUS

Supersedes: AR 515 (05/20/10); and AR 515 (Temporary, 11/24/14)
Effective Date 05/19/15

AUTHORITY

NRS 209.131

RESPONSIBILITY

Wardens and Facility Managers will be responsible for managing the use of red tag status at their institutions and facilities.

515.01 GENERAL PROCEDURES

1. Red tag status is a temporary measure in which an inmate is confined in their cell except for medical and/or other emergency situations while the rest of the unit continues normal operation.

A. Only inmates involved in serious incidents which pose an immediate threat to life, property, self, staff, other inmates or the security or orderly operations of the institution/facility may be considered for red tag status.

B. A Shift Supervisor may order a red tag status.

C. Anytime the Shift Supervisor orders a red tag status, he must immediately notify the Associate Warden or Warden.

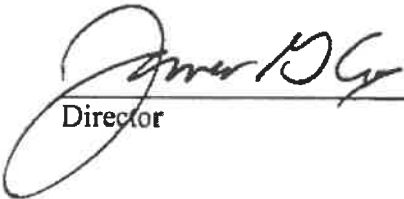
D. A written follow-up report will be completed by the Shift Supervisor in the Incident & Offenses in Custody screens of the Nevada Offender Tracking Information System (NOTIS) prior to the end of shift.

2. Any inmate placed on red tag status must be seen by a classification committee within three days from the date of occurrence.

3. This regulation does not apply when an institution is in lockdown status or when an inmate is only being held overnight at an institution when being transferred to another institution/facility.

APPLICABILITY

1. This regulation requires an Operational Procedure for institutions and facilities.
2. This regulation requires an audit.



Director



Date

Exh R

EXHIBIT R

EXH 12

ESPINOSA #74296

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
508**

DISRUPTIVE GROUP SEGREGATION

Supersedes: AR 508 (Temporary, 11/24/11)
Effective Date: 06/17/12

AUTHORITY: NRS 209.131

RESPONSIBILITY

The Director is responsible for designating disruptive groups subject to Disruptive Group Segregation (DGS).

The appropriate Deputy Directors are responsible for implementing this regulation.

The Inspector General (IG) is responsible for providing information on which to base decisions regarding disruptive groups and inmates.

508.01 DISRUPTIVE GROUP SEGREGATION ESTABLISHED

1. The designation of a disruptive group should be based upon the following:
 - A. The identification of a specific security threat group (STG).
 - B. A finding that the STG represents an active threat to either security of the Department, other inmates, or members of the community through their criminal enterprises which may include but are not limited to involvement in an institutional disturbance.
2. The Director may designate an STG as a disruptive group based on the individual or collective acts of the members of the group.
3. The Director should consider the actual or potential for violence on the part of the disruptive group in the decision to reaffirm or remove the disruptive group designation for the subject group.
4. DGS is established to control the behavior of disruptive group members who, based on behavior, are assigned to DGS.

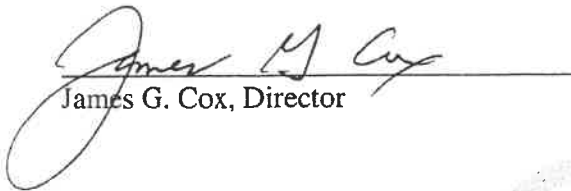
5. Based on behavior, the Director or Deputy Director may assign all or part of a disruptive group to DGS housing.
6. DGS should limit the disruptive group's access to all other classifications of the inmate population.
7. On an annual basis, the Director should reaffirm the application of DGS for a disruptive group or part of a disruptive group.

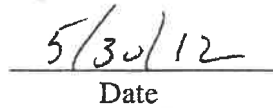
508.02 DISRUPTIVE GROUP SEGREGATION ASSIGNMENTS

1. An inmate may be assigned to DGS based on his validated membership in a disruptive group.
2. Each inmate should have a due process classification hearing prior to or within 72 hours of placement in DGS with at least 48 hours notice of that hearing.
3. All DGS shall be assigned close or higher custody.
4. An inmate's STG/DGS validation should be evaluated at each regular periodic reclassification hearing per the requirements of AR 446.
5. Inmates assigned to DGS should have the same access to programs and services as inmates placed in administrative segregation.
6. Inmates in DGS may be double-bunked.
7. An inmate may be removed from DGS based upon the following:
 - A. The inmate's removal from the STG/ disruptive group.
 - B. The Director's removal of DGS for all or part of the disruptive group.
8. The Warden may designate a unit or any part of a unit as DGS with approval of the appropriate Deputy Director.
9. The Warden may refer an inmate to be classified as DGS.
10. All inmates housed in DGS will be placed into the Offender Care in Placement (OIDCIPON) Screen in the Nevada Offender Tracking Information System (NOTIS).

APPLICABILITY

1. This regulation requires Operational Procedures for the Inspector General and any institution operating a DGS unit.
2. This regulation requires an annual audit.


James G. Cox, Director


Date

CERTIFICATE OF SERVICE

I certify that I have had my law library my
Appendix: Vol. 2 to 'Response' to defendants summary
Judgment motion" to be e-filed using this courts
CM/ECF filing system wherein all defendant through
their defense counsel named below. who are active participants
DATED this 18th day of July, 2023

Janet Trant, Esq.
Deputy Attny Gen.

Benjamin W. Espinosa

Benjamin W. Espinosa #74296

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PLAINTIFF, in proper person.